RECEIVED CENTRAL FAX CENTER

6 JAN 0 5 2007

210384US00 10/684,259 Art Unit: 1714

REMARKS

1. Claim Status

After entering the amendments, claims 1 and 3-27 will be pending and under consideration. Claim 2 is canceled. Claims 28-30 are withdrawn.

2. Claim Amendments

Claim 1 has been amended to incorporate the step recited within claim 2. Claims 3 and 15, which formerly depended from claim 2, have been amended to depend from claim 1. Claims 22, 23, 25, and 26 have been amended to identify the proper step in amended claim 1.

Claim 3 has been further amended to stipulate "removing the oxygen scavenger from the container prior to step c)." Support for this amendment to claim 3 can be found throughout pages 11 and 12 of the specification as filed.

Claim 8 has been amended to state "the container for storing the oxygen scavenger of step a) comprises an oxygen scavenger." Support for the amendment to claim 8 can be found on page 16, lines 14-16, of the specification as filed.

Claim 11 has been amended to correct an inadvertent spelling error.

Applicants believe that no new matter has been introduced by the amendments made herein.

3. Oath/Declaration

Filed herewith are new declarations for the pending application. The new declarations appropriately provide that the patent application claims priority to United States Provisional Patent Application 60/418,654.

4. Priority

Applicants acknowledge and traverse the opinion that the effective filing date for the pending claims is deemed to be October 10, 2003. Applicants respectfully submit that Provisional Application 60/418,654 clearly discloses steps of independent claim 1 at page 3, lines 14 - 21. Applicants further submit that claim 3, and all of its dependents, finds support throughout Provisional Application 60/418,654. Applicants kindly request that the opinion stating that "the effective date of all the pending claims is deemed to be 10/10/2003" be withdrawn.

7

5. 35 U.S.C. § 112 Claim Rejections

Claims 2-15, 22 and 25 have been rejected under 35 U.S.C. § 112, second paragraph. Specifically, page 4 of the Office Action dated June 7, 2006, ("Office Action") states that "[d]ependent claim 2 is totally indefinite to what is meant by: 'c) storing the oxygen scavenger" as this does not define "the metes and bounds of the scope of the word 'storing." Applicants respectfully traverse the 35 U.S.C. § 112, second paragraph, rejection of the pending claims.

Applicants respectfully submit that "the words of a claim must be given their 'plain meaning' unless such meaning is inconsistent with the specification." MPEP 2111.01 I. The MPEP and the courts have further held that "plain meaning" refers to the ordinary and customary meaning given to the term by those of ordinary skill in the art and that dictionary definitions may be used to determine the "ordinary and customary meaning" of the words used in a claim. MPEP 2111.01 III; Phillips v. AWH Corp., 415 F.3d 1303, 1313, 75 USPQ2d 1321, 1326 (Fed. Cir. 2005) (en bane); Sunrace Roots Enter. Co. v. SRAM Corp., 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003); Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc., 334 F.3d 1294, 1298, 67 USPQ2d 1132, 1136 (Fed. Cir. 2003); Ferguson Beauregard/Logic Controls v. Mega Systems, 350 F.3d 1327, 1338, 69 USPQ2d 1001, 1009 (Fed. Cir. 2003); ACTV, Inc. v. The Walt Disney Company, 346 F.3d 1082, 1092, 68 USPQ2d 1516, 1524 (Fed. Cir. 2003); Phillips v. AWH Corp., 415 F.3d at 1314, 75 USPQ2d at 1327; Brookhill-Wilk 1, 334 F. 3d at 1300, 67 USPQ2d at 1137; Renishaw PLC v. Marposs Societa' per Azioni, 158 F.3d 1243, 1250, 48 USPQ2d 1117, 1122 (Fed. Cir. 1998).

The word "storing" is a gerund of the verb "to store." Applicants respectfully submit that the standard dictionary definitions of the verb "to store" indicates that something is stocked (or alternatively, accumulated, collected, gathered, or deposited in a storehouse, warehouse or other place for keeping) for future use. See Webster's Ninth New Collegiate Dictionary published in 1987 (see attachment); http://dictionary.reference.com/browse/store; and/or http://thesaurus.reference.com/browse/store; and/or http://thesaurus.reference.com/browse/store; and/or http://thesaurus.reference.com/browse/store; and/or http://thesaurus.reference.com/browse/store; and/or <a href="http://thesaurus.reference.com/browse/store; and/or <a href="http://thesaurus.reference.com/browse/st

8

Additionally, page 4 of the Office Action stated that "applicant's specification only discloses storing the oxygen scavenger in a container." Applicants respectfully disagree with this characterization of the specification and kindly point out that page 14, lines 11-14, of the specification provides that the oxygen scavenger subjected "to an initial dose of actinic radiation insufficient to trigger the oxygen scavenger" may not require a container at all. Consequently, the specification provides support for claims regardless of whether the oxygen scavenger subjected "to an initial dose of actinic radiation insufficient to trigger the oxygen scavenger" is stored in a container or not stored in a container.

Claim 3 has been rejected under 35 U.S.C. § 112, second paragraph. Specifically, page 4 of the Office Action stated that "[d]ependent claim 3 is indefinite because the limitation of this claim of 'storing the oxygen scavenger in a container' makes step b) of independent claim, from which claim 3 indirectly depends, indefinite." Specifically, the Office Action questions whether step b) is "performed inside the container" or whether "the oxygen scavenging material first removed from the container before it is subjected to the final does [sic] of radiation."

Applicants respectfully disagree with the 35 U.S.C. § 112 rejection of claim 3. However, to advance the prosecution of this patent application and to more distinctly claim the subject matter which the Applicants regard as their invention, claim 3 has been amended to stipulate "removing the oxygen scavenger from the container prior to step c)." Consequently, the proffered point of indefiniteness is now moot. Applicants respectfully request that the 35 U.S.C. § 112, second paragraph, rejection of claim 3 be withdrawn.

6. Claim Objections

Claim 8 was objected to "as being of improper dependent form for failing to further limit the subject matter of a previous claim." Applicants respectfully disagree with the analysis of claim 8. However, to advance the prosecution of this patent application and to more distinctly claim the subject matter which the Applicants regard as their invention, claim 8 has been amended to recite that the "the container <u>for storing the oxygen scavenger of step a)</u> comprises an oxygen scavenger." Applicants respectfully request that the objection to claim 8 be withdrawn.

7. 35 U.S.C. § 102 and 103 Claim Rejections

Claims 1-2, 15-21, 23-24, and 26-27 stand rejected under 35 U.S.C. § 102(b) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious in light of Becraft et al. (U.S. Patent Number 5,911,910 - "Becraft") or Luthra et al. (U.S. Patent Number 6,287,481 - "Luthra"). Claims 1-2, 15-21, 23-24, and 26-27 further stand rejected under 35 U.S.C. § 102(e) as anticipated by Cook, Jr. et al. (U.S.

9

Patent Number 6,449,923 - "Cook"). Page 7 of the Office Action asserts that Becraft or Luthra "both directly disclose exposing the oxygen scavenger to actinic radiation in a stepwise process wherein the film is exposed to a plurality of discrete periods of time" and that "it should be clear that it is not until the forth [sic] exposure step that the oxygen scavenger becomes fully triggered" Page 8 of the Office Action asserts that Cook teaches "a method for triggering an oxygen scavenging composition . . . [by] exposing the composition to a source of pulsed light . . . to provide a triggered composition," and that "it should be clear that it is not until the final pulsed exposure step that the oxygen scavenger becomes fully triggered" Applicants respectfully traverse the rejections of pending claims 1, 15-21, 23-24, and 26-27 under 35 U.S.C. § 102(b) over Becraft or Luthra, 35 U.S.C. § 103(a) over Becraft or Luthra, and 35 U.S.C. § 102(c) over Cook.

MPEP § 2131 states that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Additionally, MPEP § 2142 stipulates that three basic criteria must be met to establish a *prima facie* case of obviousness:

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Applicants submit that neither Becraft, Luthra, nor Cook expressly or inherently teach the steps of claim 1 and thus do not anticipate the pending claims. Additionally, neither Becraft nor Cook, singly or in combination, establish a *prima facie* case of obviousness as neither reference, singly or in combination teach or suggest the steps of claim 1 and thus do not obviate the pending claims. Specifically, Becraft, Luthra, or Cook do not anticipate nor obviate (singly or in combination) a method including the step of "storing the oxygen scavenger" which has been subjected "an initial dose of actinic radiation insufficient to trigger the oxygen scavenger."

Becraft, Luthra, and Cook clearly take an oxygen scavenger and expose the oxygen scavenger to actinic radiation in multiple discrete doses with each dose having a discrete period of time. However, contrary to the characterization of the Office Action, the continuous processes of Becraft, Luthra, and Cook do not "store," that is to say stock (or alternatively, accumulate, collect, gather, or deposit in a storehouse, warehouse or other place for keeping) for future use, an oxygen scavenger subjected to "an

10

initial dose of actinic radiation insufficient to trigger the oxygen scavenger" (emphasis added). Within the processes of Becraft, Luthra, and Cook, the oxygen scavenger subjected to "an initial dose of actinic radiation insufficient to trigger the oxygen scavenger" only exists as an intermediate in the continuous process of dosing the oxygen scavenger with actinic radiation to produce a triggered oxygen scavenger. Consequently, the oxygen scavenger subjected to "an initial dose of actinic radiation insufficient to trigger the oxygen scavenger" is not "stored," that is to say stocked (or alternatively, accumulated. collected, gathered, or deposited in a storehouse, warehouse or other place for keeping) for future use. Furthermore, Becraft, Luthra, nor Cook mention storing, that is to say stocking (or alternatively, accumulating, collecting, gathering, or depositing in a storehouse, warehouse or other place for keeping) for future use, an oxygen scavenger subjected to "an initial dose of actinic radiation insufficient to trigger the oxygen scavenger" as one of ordinary skill in the art would ascribe to the standard dictionary definition of the word "store." Becraft, Luthra, and Cook only teach producing and storing, that is to say stocking (or alternatively, accumulating, collecting, gathering, or depositing in a storehouse, warehouse or other place for keeping) for future use, a fully triggered oxygen scavenger. See Becraft, column 7, line 37, bridging column 8, line 8; Luthra, column 5, line 45, bridging column 6, line 19; Cook, column 4, lines 50-63.

In light of the comments presented herein, Applicants respectfully submit that Becraft, Luthra, or Cook do not explicitly or inherently describe "storing the oxygen scavenger" which has been subjected "an initial dose of actinic radiation insufficient to trigger the oxygen scavenger." Applicants respectfully request that the 35 U.S.C. § 102(b) rejections of the pending claims in view of Becraft or Luthra be withdrawn and the 35 U.S.C. § 102(e) rejections of the pending claims 1, 15-21, 23-24, and 26-27 in view of Cook be withdrawn.

In light of the comments made herein, Applicants respectfully submit that neither Becraft nor Luthra, singly or in combination, teach or suggest the step of "storing the oxygen scavenger" which has been subjected "an initial dose of actinic radiation insufficient to trigger the oxygen scavenger" as required to establish a *prima facie* case of obviousness. Applicants respectfully request that the 35 U.S.C. § 103(a) rejections of the pending claims 1, 15-21, 23-24, and 26-27 in view of Becraft or Luthra, singly or in combination, be withdrawn.

8. Final Remarks

In commenting upon the cited references and the pending claims, certain details of distinction between the cited references and the pending claims have been mentioned to facilitate a better

11

understanding of the claimed invention. The unclaimed distinctions are not intended to create any implied limitations in the claims. Additionally, not all distinctions between the cited references and Applicants' present invention have been presented by the Applicants. Applicants reserve the right to submit additional evidence demonstrating that Applicants' invention is novel and nonobvious in view of the prior art.

The foregoing remarks are intended to assist the Examiner in re-examining the application and, in the course of explanation, may employ shortened, more specific, or variant descriptions of some of the claim language. Such descriptions are not intended to limit the scope of the claims. The actual claim language should be considered in each case. Furthermore, the remarks only represent certain advantageous features and differences between the pending claims and the cited references that Applicants' attorney chooses to mention at this time. The remarks should not be considered exhaustive to all features which render the invention patentable.

Reconsideration of the pending claims is respectfully requested. In view of the foregoing, Applicants respectfully submit that the pending claims under consideration, claims 1 and 3-27, are in condition for allowance and respectfully request the issuance of a Notice of Allowance. The Examiner is invited to contact the undersigned patent attorney at (832) 813-4339 with any questions, comments or suggestions relating to the referenced patent application.

Date: January 5, 2007

CHEVRON PHILLIPS CHEMICAL CO. LP 10001 Six Pines Drive

The Woodlands, Texas 77380 Phone: (832) 813-4339

Fax:

(832) 813-4339 (832) 813-6060 Respectfully submitted,

Registration No. 45,036

ATTORNEY FOR APPLICANTS

1162 stop • story line

completely closed 10: a depression in the face of an animal at the junction of forchead and muzzle—see DOG illustration stop and (1594): serving 10 stop: designed to stop (~ time) (~ signal) stop-and-go (sign-ani-go, -im, attributively-go) and (1925): of, relating to, or involving frequent stops: esp: controlled or regulated by infile lights (~ driving) stop both n (m. 1918): an acid both used to aheak phonographic development of a negative or print peock (*sign-kikk n (1584); n enck for stopping or regulating flow tas through a pipe) stop down w (ca. 1881) to reduce the effective aperture of (n lens) by means of a disaphragm

stop down w (ca. 1891): to reduce the clicitive operative at its least by means of a disaphragm stope \text{top\ n} iprob. fr. LC stope, lit., step: akin to \text{OE} stope step more at STEP [1747]: a usu, steplike excavation underground for the removal of are that is formed as the are is mined in successive layers stope vb stoped; stapsing w (1788): to mine by means of a stope \sim w it to extract force) from a stope \sim stope up \text{STOpe ap\ n} it (1884): something that serves us a temporary expedient: maxisalist sym see RESOURC.

stop knob n (1887): one of the handles by which an organist draws or churse of a nestimate to the standles.

shus off a particular stop stop-light \sip-lit\n (1926) 1: a light on the rear of a motor vehicle that is illuminated when the driver presses the brake pedal 2: TRAF.

incs(SNA). Stop order in (ca. 1891): an order to a broker to buy or sell respectively at the market when the price of a security advances or declares to a designated level stop on I/Pstip-ranty is (1800 + our tas in drop our I) (1973); to withdraw temporarily from enrollment of a college or university — stop—

stop om (Pistip-lait) vi (1909 + our las in drup out 1] (1973); to withdraw temporarily from enrollment at a college or university — stopout \sign-ait\sign-

race)
storing (storij, storin n (1612) 1 a r space or a place for storing b
ran amount stored or MEMORY 4 2 a; the act of storing; the state
of being stored; ey; the subbeging of pasels in a depository (as a
wardbusse) b: the price charged for keeping goods in a storehouse 3
r the production by means of electric energy of chemical reactions that
when allowed to reverse themselves generate electricity again without

when allowed to reverse themselves generate electricity open serious loss stronge cell n (1881); a cell or connected group of cells that converts chemical energy into electrical energy by reversible chemical reactions and that may be recharged by prasing a current through it in the direction opposite to that of its discharge—colled also sarrage butters stormax (Notobingules Notobingules Notobingules Notobingules (Margant bulson obtained from the bark of an Asian tree (Liquidambur orientalis) of the witch-hazel family that is used as an expectional and sometimes in perfunery—called also Levum stands b: a balsam from the sweet gum that is similar to storma. 2: any of a genus (Styrax of the family Styracaceae, the storm, family) of trees or shrubs with usus, bairy leaves and flowers in drawping (seemes—compact BENZIN)

genus (Styrox of the family Styracaceae, the storag family) of trees or shrubs with usu, hairy knives out flowers in drouping resentes — compare BENZINA **
**Refer (NiloS)r. **stolar* w stored; stor-ling [ME moren, fr. OF esturer to construct, restore, store. fr. l. instaurare to renew, restore. fr. ins. 4-marane (akin to Gk stauras stake) — more at Stera[(1)e) [1]: 11 staurare (akin to Gk stauras stake) — more at Stera[(1)e) [1]: 11 staurare (akin to Gk stauras stake) — more at Stera[(1)e) [1]: 11 staurare (akin to Gk stauras stake) — more at Stera[(1)e) [1]: 11 staurare (akin to Gk stauras stake) — more at Stera[(1)e) [1]: 11 staurare (akin to Gk stauras stake) — more at Stera[(1)e) [1]: 11 staurare (akin that of stauras that of stauras that of stauras at his original at a leastion (as a warchouse, library, or DDT) [1]: to place or leave in a location (as a warchouse, library, or DDT) [1]: to place or leave in a location (as a warchouse, library, or computer memory) for preservation or later use or disposal [4]: to provide storage name for a IRAD (dela ators for staring surflus whom) — storable (Nico-o-bol, Nico-) adjuster of staring surflus whom) — storable (Nico-o-bol, Nico-) adjuster of staring surflus whom) — storable (Nico-o-bol, Nico-) adjuster of staring surflus memorial (stora) and stauras of staring surflus staring from surflus staring star

imminicated (1602) it or stores: of, relating to, kept in, or used for a store 2: purchased from a store as opposed to being natural or homenhade: MANUFACTURED, READY-MAIR (~ clothes) (~ bred) store-bought \tait(s), but, \tau(s), \tau_s\tau

store corese in [if. its coing a staple attribe attributed in the (1863): CHEDDAR (1863): CHEDDAR (1864): A coing a store droot (stofab-, front, 'stofab-, a coing a store droot (store) (a ~ evangelist) 2: occupying a room or suite of rooms in a store building or street level and introceductly behind a storefront (n ~ school) 3: of, relating in, or being

outreach professional services (~ lawyers) (~ dayoure center) hospitals)

hospitals, (1943) It the front side of a store or store building factastoreton n (1943) It the front side of a store or store building factastoreton the fact of the fact of the storeton that utilizes storeton quetes as a meeting place and that usu, helds services of a highly or tional nature

monai nature storeshings \sidolf-shabs \sidolf-\n (14c) = 1 : a buikling for sto-goods (as provisions) : Magazine, Warehorsi = 2 : an abundant sup-PERISTORY

goods (as provisionis); made area when the state of supplier stores experience (1618). It can that has charge of supplier military stores. 2: one that operates a retail store store-room \(\text{-filter} \), \(\text{-min} \), \(\text{-filter} \), \(\text{-filte

: having an interesting history; celebrated in story or history storied or stor-cycel (Mor-ed. Mor-) add (1024): having stories to movied house) stork (Mor-) add (1024): having stories to its movied house) stork (Mor-) add (Mor-) a

storm boal n (1942) a tight tast chain used in transport attachment process ir arms storms storms storms storm of the storm door n (1878); an additional door placed outside an ordinatistic door for protection against severe weather storm petrel n (cn. 1833); any of various small petrels; esp.; o small souty black white-marked petrel (Hydrodon's pringing) frequenting the most haltantic and Mediterranean

ranean
storm trooper n (1935) 1: a member of a
private Nazi army notorious for aggressiveness volence, and brutality 2: one that
resembles a Nazi storm trooper
storm window n (co. 1888); a sich placed
outside an ordinary window as a protection
against severe weather - called also storm
such

sain
stormy /storemet adj storm-lert est (1%)

1: relating in, characterized by, or indicative of a storm (a ~ day) (a ~ neutrin) 2
: nanked by turnoil or fury (a ~ life) (a ~ conference) — storm-ly (står-mode) adv
— storm-lengs /md-mod (
storm) petrel n (ca. 1776)

2 n: one foud of strife b; n harbunger of trouble.

stormy petrel n (ca. 1776) 1: STORM PLEAT.

2 n: one found of state b: n hardinger of trouble story (Aldr-C. Stor-A, n) stories [ME storic, Ir. Of exterie. Ir. L historia — more at HISTORY] (13c) 1 archive: HISTORY 1.3 2 as an account of incidents or events b: n statement regarding facts pertinent in a situation in question c: AMERICATIA exp: nn origing one 3 n: a fictional narrative shorter than a newel specific story b: the intrigue or plot of a marrative or dramatic work of widely circulated rumor 5: LBE LAIREMON 6: LEGIND ROME. I allow artible or brundcast story w stor-led; story-ying (15c) 1 archoic: to narrate or description 2: to adorn with a story or a seven from history story also storey (Stores) and stories obta storys [Mt. Ir. M. historia picture, story of a building, Ir. L. history, takes positive adorning the windows of medieval huildings [15c] 1 aspace in a building between two adjacent floor levels or between and the root b: a set of rooms in such a space e: a unit of mequal to the beight of the story of a building one — high) 2: a contal division of a building's exterior not accessarily corresponded (1900) of the story of a building one — high) 2: a contal division of a building's exterior not accessarily corresponded by the important changes of scene and action in a planary or television show or set (1900) (1900) (1900) of story or play story line n (1946): the plot of a story or play

PAGE 13/29 * RCVD AT 1/5/2007 3:54:19 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/9 * DNIS:2738300 * CSID:8328131804 * DURATION (mm-ss):07-36